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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,872	02/12/2002	Joseph S. Maxim JR.	1990.ALC	6818

35157 7590 07/15/2004

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EXAMINER
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CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/074,872	MAXIM, JOSEPH S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William K Cheung	1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                           |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                      | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0212</u> . | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. Applicant's affirmed election of Group I invention, claims 1-7, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, in view of lack of traversal to restriction requirement set forth from Response to Restriction Requirement, the restriction set forth by the examiner is deemed proper and is therefore made Final.

### ***Claim Objections***

2. Claim 6 is objected to because of the following informalities: Claim 6 is objected because it is not ended with a period. According to MPEP 608.1(m), each claim begins with a capital letter and ends with a period which means there should only be one sentence per claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Vandezande et al. (WO 00/075205).

*The invention of claims 1-3, 5-7 relates to a **latent cross-linking thickener** or **rheology modifier composition** comprising a **polymeric thickener** having at least one **functionality capable of forming cross-links**.*

Vandezande et al. (page 27-29, example B) disclose an acrylic based polymeric crosslinkable thickener having a crosslinkable functional group. Vandezande et al. (page 36, claim 1) disclose that the thickener having from 0.5 to 50 weight percent of crosslinkable functionality. Regarding the type of functionality suitable for the disclosed invention, Vandezande et al. (page 16, line 1-15) disclose a list of functional groups which includes the functional groups as claimed. Vandezande et al. contain all the limitations of claims 1-3, 5-7. Therefore, claims 1-3, 5-7 are anticipated.

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5. Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawson et al. (US 5,460,226).

*The invention of claims 1, 4 relates to **the composition** of claim 1 wherein said **polymeric thickener** is a **natural thickener** selected from the group consisting of **alginates, cellulosics** and their derivatives, **guar, arabic gum, Kelgin starch** and mixtures thereof.*

Lawson et al. (abstract; col. 2 , line 64 to col. 3, line 6) disclose guar as polymeric thickeners having functional groups crosslinkable with borates. Lawson et al. contain all the limitation of claims 1, 4. Claims 1, 4 are anticipated.

### **Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'William K. Cheung', with a stylized flourish extending to the right.

Primary Examiner

July 10, 2004